

## REMARKS

Claims 1-20 are pending. Claims 1-8 and 11-18 are amended herein. No new matter is added as a result of the claim amendments.

### Claim Objections

Claims 1-7, 12-13 and 15-17 are objected to for the reasons given in the instant Office Action. Claims 1-7, 12-13 and 15-17 are amended herein to address the cited informalities.

### 102 Rejections

#### Claims 1-4, 8 and 14-18

The instant Office Action states that Claims 1-4, 8 and 14-18 are rejected under 35 U.S.C. § 102(b) as being anticipated by “Error-Resilient Video Compression” (hereinafter, “Apostolopoulos-1999”). The Applicant has reviewed the cited reference and respectfully submits that the embodiments of the present invention recited in Claims 1-4, 8 and 14-18 are not shown or suggested by Apostolopoulos-1999.

Independent Claim 1 is directed to a method that includes, “when the frame is from the first sub-sequence of frames, encoding the frame, packetizing the frame into at least a packet, and sending the packet via a first path in the network; and otherwise, when the frame is from a second sub-sequence of frames and not from the first sub-sequence of frames, encoding the frame, packetizing the frame into at least a packet, and sending the packet via a second path in the network that includes a relay device not on the first path.” Claims 2-4 and 14-17 depend from Claim 1 and contain additional limitations.

Independent Claim 8 is directed to a system that includes “a transmitter for transmitting the first frame via one of a first path and a second path based on the sub-sequence identifier field, wherein the first path comprises a relay device and the second path does not include the relay device of the first path.”

Independent Claim 18 is directed to a method that includes “transmitting the encoded odd video frames by employing a first path over the network; and transmitting the encoded even video frames by employing a second path over the network, the second path comprising a relay device that is not on the first path.”

Thus, according to the present claimed invention, different subsets of video are set over different paths over a network. In particular, according to the claims, a first subset of frames is sent over a network using a first path and a second subset of frames is sent over the network using a second path, where the first path includes a particular relay device and where the second path does not include that relay device.

Applicant respectfully submits that Apostolopoulos-1999 does not show or suggest the claim limitations cited above. The instant Office Action cites Section 4.1 of Apostolopoulos-1999 as teaching these limitations. However, the cited portion of Apostolopoulos-1999 only describes sending different streams over different channels, or over different frequency bands, or at different times. Applicant respectfully submits that neither the cited portion of Apostolopoulos-1999, nor Apostolopoulos-1999 in its entirety, shows or suggests the claim limitations cited above.

More specifically, Applicant respectfully submits that Apostolopoulos-1999 does not show or suggest multiple paths through the network, and in particular a first path that includes a particular relay device and a second path that does not include that relay device. For example, Apostolopoulos-1999 does not even mention relay devices, much less diverse network paths that traverse different relay devices.

In summary, Applicant respectfully submits that Apostolopoulos-1999 does not show or suggest the embodiments of the present claimed invention recited by independent Claims 1, 8 and 18. Accordingly, Applicant respectfully submits that the basis for rejecting Claims 1, 8 and 18 under 35 U.S.C. § 102(b) is traversed, and that these claims are in condition for allowance. Because Claims 2-4 and 14-17 depend from Claim 1 and contain additional limitations, Applicant respectfully submits that the basis for rejecting Claims 2-4 and 14-17 under 35 U.S.C. § 102(b) is also traversed, and Claims 2-4 and 14-17 are also in condition for allowance.

Claims 5-7, 9-13 and 19-20

The instant Office Action states that Claims 5-7, 9-13 and 19-20 are rejected under 35 U.S.C. § 102(e) as being anticipated by “Reliable Video Communication over Lossy Packet Networks using Multiple State Encoding and Path Diversity” (hereinafter, “Apostolopoulos-2001”).

Applicant respectfully submits that Apostolopoulos-2001 does not qualify as prior art under 35 U.S.C. § 102(e). Apostolopoulos-2001 is neither a patent nor an application for patent.

Applicant also respectfully submits that the Examiner has failed to establish that the date of publication of the Apostolopoulos-2001 reference

precedes the filing date of the instant application. The date attached to the Apostolopoulos-2001 reference is only given as "2001."

Furthermore, Applicant respectfully submits that the Examiner has failed to establish a *prima facie* case under 35 U.S.C. § 102(a). According to established case law, a *prima facie* case is made out under 35 U.S.C. § 102(a) if, within one year of the filing date, the invention is described in a printed publication whose authorship differs in any way from the inventive entity (please see MPEP 2132.01). John G. Apostolopoulos is named as the sole inventor of the present claimed invention and is the sole author of the Apostolopoulos-2001 reference. Because the authorship differs in no way from the inventive entity, a *prima facie* case under 35 U.S.C. § 102(a) has not been established.

Therefore, Applicant respectfully submits that the basis for rejecting Claims 5-7, 9-13 and 19-20 under 35 U.S.C. § 102 is traversed, and that these claims are in condition for allowance.

#### Conclusions

In light of the above remarks, Applicant respectfully requests reconsideration of the rejected claims.

Based on the arguments presented above, Applicant respectfully asserts that Claims 1-20 overcome the rejections of record and, therefore, Applicant respectfully solicits allowance of these claims.

Applicant has reviewed the references cited but not relied upon. Applicant did not find these references to show or suggest the present claimed invention: U.S. Patent Nos. 6,680,976; 6,629,318; 6,611,530;


6,421,387; 6,400,767; 6,317,462; 6,104,757; and 6,078,328; and the Goldberg et al. reference. U.S. Patent No. 6,757,735 and the Chiou et al. reference do not appear to qualify as prior art.

The Examiner is invited to contact Applicants' undersigned representative if the Examiner believes such action would expedite resolution of the present Application.

Respectfully submitted,

WAGNER, MURABITO & HAO LLP

Date: 6/10/05

  
\_\_\_\_\_  
John P. Wagner, Jr.  
Reg. No. 35,398

Two North Market Street  
Third Floor  
San Jose, California 95113  
(408) 938-9060